

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE ELEVENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 14981 of 2001

Between:

- 1 N.MAHESWARA MURTHY S/ N.Muniramaiah
Tirupati, Chittoor Dist.
- 2 B.Veeraiah S/o Peddasiddaiah
Tirupati, Chittoor Dist.
- 3 P.Gurunath S/o Srinivasulu Naidu
Tirupati, Chittoor Dist.
- 4 G.Subramanyam Reddy S/o Subba Reddy
Pakala, Chittoor Dist.
- 5 G.Mallikarjuna Naidu S/o G.Masthan Naidu
Srikalahasti, Chittoor Dist.
- 6 P.Munuswamy S/o Tatappa
Srikalahasti, Chittoor Dist.
- 7 K.Ethi Rajulu S/o K.Subramanyam
Srikalahasti, Chittoor Dist.
- 8 K.Chandra Reddy S/o K.Bali Reddy
Pichatur, Chittoor Dist.
- 9 K.Rajendra S/o subramanyam
Srikalahasti, Chittoor Dist.
- 10 M.V.Kondappa S/o M.Venkatramana
Mandnapalli, Chittoor Dist.
- 11 S.Hasanshavali S/o Gouse Saheeb
Mandnapalli, Chittoor Dist.
- 12 E.Venkata Ramana S/o Srinivasulu
Mandnapalli, Chittoor Dist.
- 13 E.Reddappa S/o Reddappa
Nirmithikendra, Chittoor Dist.

..... PETITIONERS

AND

- 1 The MD., A.P. Housing Corp Ltd.,
Himyatnagar, Hyd.

2 The District Manger., A.P. Housing Corp Ltd.,
Chittoor Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any appropriate writ, order or direction, preferably a writ in the nature of mandamus declaring the action of the respondents not regularizing the services of the petitioners they are eligible for the same and not paying regular pay scales on par with regular employees is illegal, arbitrary & unconstitutional & consequently direct the respondents to regularize the services of petitioners in terms of G.O.M.s No.212, Fin & Plan (FW.PC-III) dept., dt 22-4-94

Counsel for the Petitioner:MR.A.RAJASEKHAR REDDY

Counsel for the Respondent No.: MR.K.MOHAN RAMI REDDY

The Court made the following :

—

—

—

—

—

—

1

1

-

-

-

-

-

ORDER:

1. This writ petition is filed assailing the inaction of the respondents in not regularizing the services of the petitioners and for not paying regular pay scales on par with regular employees as illegal and arbitrary.

2. The petitioners are working as Godown Watchman on consolidated salary at SS rates. Despite working for the last so many years the corporation is not regularizing their service and not granting regular pay scales, though they are eligible for the posts. It is further stated by the petitioners that Government issued G.O.Ms.No.212 Finance and Planning, dated 22-4-1994 for regularization of services who are working on temporary basis and this Court also in number of writ petitions directed the authorities to regularize the services as and when employee completes 5 years of service and prayed to regularize the services of the petitioners in terms of G.O.Ms.No.212, Finance and Planning (FW.PC-III) Department, dated 22-4-1994.

3. The learned counsel appearing on behalf of the petitioners vehemently contends that the petitioners have been appointed long time back, in the respondent Corporation and the Corporation having extracted work for all these years without any break is not regularizing their services. Therefore, the inaction on the part of the respondent Corporation in not regularizing the services of the petitioners is illegal and arbitrary.

4. On the other hand, the learned senior Standing Counsel appearing on behalf of the respondents contends that there is no sanction post of watchman in the Corporation, and, therefore, the question of regularization does not arise. The writ petition is devoid of merits and is liable to be dismissed.

5. Admittedly, the petitioners were appointed as a watchman in the respondent Corporation and they have been discharging their duties since several years. The

prayer sought for in the writ petition is to regularize the services of the writ petitioners in terms of G.O.Ms.No.212, Finance and Planning (FW-PC-III) Department, dated 22-04-1994.

6. A specific plea has been taken by the respondent-Corporation that the respondent Corporation appointed petitioners purely on temporary basis and the wages have been paid as per the SSR being paid by the Irrigation Department and there are no permanent godowns attached to the Corporation and the wages of the godown watchmen are being paid 3% of the Administrative charges provided in the Unit of the House and there were no sanctioned posts in the Corporation. Hence, the question of regularization does not arise.

7. No doubt, the petitioners have been continuing in service for the last more than 15 years. But, at the same time, there are admittedly no sanctioned godown watchman posts. They are being paid as daily wages, basing on the assessed SSR rates adopted by the irrigation department. However, the petitioners are working in the Corporation since long time, does not confer any right for regularization, specially when there are no sanctioned posts. Therefore, the question of regularization does not arise. In so far as consideration of their case as per G.O.Ms. No.212, Finance and Planning (FW-PC-III) Department, dated 22-4-1994 certain conditions are required to be fulfilled they are:

1. The persons appointed should possess the qualifications prescribed as per rules in force as on the date from which his/her services have to be regularized.
2. They should be within the age limits as on the date of appointment as NMR/Daily wage employee.
3. The rule-of-reservation wherever applicable will be followed and back-log will be set-off against future vacancies.
4. Sponsoring of candidates from Employment Exchange is relaxed.
5. Absorption shall be against clear vacancies of posts considered necessary to be continued as per work-load excluding the vacancies already notified to the Andhra Pradesh Public Service Commission/ District Selection Committee.

6. In the case of Work charged Establishment, where there will be no clear vacancies, because of the fact that the expenditure on Work charged is at a fixed percentage of P.S. charges and as soon as the work is over, the services of work charged establishment will have to be terminated, they shall be adjusted in the other departments, District Offices provided there are clear vacancies of last Grade Service.

8. Even as per G.O.Ms.No. 212, Finance and Planning (FW.PC.III) Department, dated 22-4-1994, on which the petitioners are claiming regularization of their services, clearly shows that there must be a clear vacancy post to consider for regularization of the services. In view of the fact that there are no sanctioned post, the question of regularization does not arise. However, the respondent Corporation has been extracting the work from the petitioners for the last 15 years. Therefore, the petitioners now become age barred for any employment if they are thrown out of employment by the respondent Corporation as godown watchman.

9. In these circumstances, a direction is given to the respondent Corporation to address a letter to the Government, depending upon the need of the work in the Corporation for creation of posts in the cadre of watchman. Till the decision would be taken by the Government, the respondents shall not be discontinued from the work, unless the work is available to the Corporation to entrust the same to the petitioners.

10. Accordingly, the writ petition is disposed of. No order as to costs.

K.C.Bhanu, J.

11th July, 2005

KM

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

- 1 The MD., A.P. Housing Corp Ltd.,
Himyatnagar, Hyd.
- 2 The District Manger., A.P. Housing Corp Ltd.,
Chittoor Dist.

3 2 CD copies

-

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 14981 of 2001

—

-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-

11th July, 2005